

HOUSE BILL No. 5199

October 22, 2003, Introduced by Reps. Drolet, Milosch, LaJoy, Hummel, Brandenburg, Caswell, Garfield, Nofs, Rocca, Bradstreet, Acciavatti, Palsrok, Voorhees, Robertson, Vander Veen, Ward, Shaffer, Woodward, Stahl, Huizenga, Kooiman, Ehardt, DeRoche, Bisbee, Pappageorge, Pastor, Farhat, Casperson, Hune, Emmons, Hoogendyk, Steil, Palmer, Amos, Tabor, Walker, Hager, Sheen, Wojno, Accavitti, Pumford, Caul, Julian, Ruth Johnson and Richardville and referred to the Committee on Criminal Justice.

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending sections 9 and 9a of chapter X (MCL 770.9 and 770.9a), section 9a as amended by 2002 PA 483, and by adding section 9b to chapter X.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

Sec. 9. During the pendency of an appeal or application for leave to appeal, a justice or judge of the court in which the appeal or application is filed may admit the defendant to bail, if the offense charged is bailable and if the offense is not an assaultive crime as defined in section 9a of this chapter **or sexual assault of a minor as described in section 9b of this chapter.**

Sec. 9a. (1) A defendant convicted of an assaultive crime

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1 and awaiting sentence shall be detained and shall not be admitted
2 to bail unless the trial court finds by clear and convincing
3 evidence that the defendant is not likely to pose a danger to
4 other persons **and that section 9b of this chapter does not**
5 **apply.**

6 (2) A defendant convicted of an assaultive crime and
7 sentenced to a term of imprisonment who has filed an appeal or an
8 application for leave to appeal shall be detained and shall not
9 be admitted to bail unless the trial court or the court to which
10 the appeal is taken finds by clear and convincing evidence **that**
11 **section 9b of this chapter does not apply and** that both of the
12 following exist:

13 (a) The defendant is not likely to pose a danger to other
14 persons.

15 (b) The appeal or application raises a substantial question
16 of law or fact.

17 (3) As used in this section, "assaultive crime" means an
18 offense against a person described in section 81c(3), 82, 83, 84,
19 86, 87, 88, 89, 90a, 90b(a) or (b), 91, 200 to 212a, 316, 317,
20 321, 349, 349a, 350, 397, 411h(2)(b) or (3), 411i, 520b, 520c,
21 520d, 520e, 520g, 529, 529a, 530, or 543a to 543z of the Michigan
22 penal code, 1931 PA 328, MCL 750.81c(3), 750.82, 750.83, 750.84,
23 750.86, 750.87, 750.88, 750.89, 750.90a, 750.90b, 750.91, 750.200
24 to 750.212a, 750.316, 750.317, 750.321, 750.349, 750.349a,
25 750.350, 750.397, 750.411h, 750.411i, 750.520b, 750.520c,
26 750.520d, 750.520e, 750.520g, 750.529, 750.529a, 750.530, and
27 750.543a to 750.543z.

1 (4) The appeal or application for leave to appeal filed by a
2 person denied bail under this section shall be expedited pursuant
3 to rules adopted for that purpose by the supreme court.

4 **Sec. 9b. (1) A defendant convicted of sexual assault of a**
5 **minor and awaiting sentence shall be detained and shall not be**
6 **admitted to bail.**

7 (2) A defendant convicted of sexual assault of a minor
8 sentenced to a term of imprisonment who has filed an appeal or an
9 application for leave to appeal shall be detained and shall not
10 be admitted to bail.

11 (3) As used in this section:

12 (a) "Minor" means an individual less than 16 years of age.

13 (b) "Sexual assault of a minor" means a violation of section
14 520b, 520c, 520d, or 520g of the Michigan penal code, 1931 PA
15 328, MCL 750.520b, 750.520c, 750.520d, and 750.520g, in which the
16 victim of the offense is a minor.